

ENTERED

September 25, 2023

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CRIMINAL NUMBER 04-12-773-02
	§	CRIMINAL NUMBER 07-09-1757-01
ELDA REGALADO OLIVAREZ	§	
a/k/a ELDA JUANITA REGALADO,	§	
	§	
Defendant.	§	

ORDER

Defendant Elda Regalado Olivarez a/k/a Elda Juanita Regalado ("Defendant") has filed a Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1)(A) ("Defendant's Motion") (Docket Entry No. 409 in 04:12cr773-02; Docket Entry No. 46 in 07:09cr1757-01).

On December 9, 2014, the court sentenced Defendant to 300 months in prison for conspiracy to possess with intent to distribute 50 kilograms or more of methamphetamine to be followed by 10 years of supervised release. (Judgment in a Criminal Case, Docket Entry No. 295 in 04:12cr773-02) The sentence was to run consecutively to the Defendant's 30-month sentence for conspiracy to possess and possession with intent to distribute a controlled substance in 07:09cr1757-01. (Judgment in a Criminal Case, Docket Entry No. 43 in 07:09cr1757-01)

Defendant is confined at FMC Carswell in Ft. Worth, Texas. She is 61 years old and alleges that she suffers from

hyperlipidemia, obesity, epilepsy/seizure disorder, pre-diabetes, hypertension, tachycardia, and osteoarthritis, which are being treated at FMC Carswell. The warden at FMC Carswell denied Defendant's request for compassionate release on March 22, 2023 (March 22, 2023, Memorandum, Exhibit 1 to Defendant's Motion, Docket Entry No. 409-1, p. 2, in 04:12cr773-02) Defendant has received both doses and a booster of the Pfizer COVID-19 vaccine.

After considering the Defendant's Motion and the Government's Response to Defendant's Second Motion Pursuant to 18 U.S.C. 3582(c)(1)(A) Motion (Docket Entry No. 411 in 04:12cr773-02; Docket Entry No. 48 in 07:09cr1757-01), the court concludes that the requested relief is not appropriate for the following reasons:

1. COVID-related concerns alone do not constitute "extraordinary or compelling" reasons for relief pursuant to Title 18, United States Code, § 3582(c)(1)(A)(i).
2. Defendant has not shown that the Bureau of Prisons ("BOP") and/or FMC Carswell is incapable of managing the COVID-19 pandemic or providing her the necessary medical treatment.
3. Defendant has not demonstrated that she qualifies for compassionate release pursuant to Title 18, United States Code, § 3582(c)(1)(A)(i) and U.S.S.G. § 1B1.13 since she has failed to show that she is suffering from a terminal illness or other medical condition "that substantially diminishes [her] ability [. . .] to provide self-care within the environment of a correctional facility and from which she [. . .] is not expected to recover." U.S.S.G. § 1B1.13(1)(A)&(3), application note 1.
4. Given her history of drug trafficking offenses and her leadership role in the offense (See Presentence Investigation Report, Docket Entry No. 259 in 04:12cr773-02, p. 5 ¶ 10, pp. 7-8 ¶ 26,

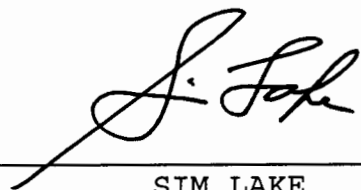
p. 9 ¶ 36.), Defendant has not shown that she "is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g)." See U.S.S.G. § 1B1.13(2).

Accordingly, Defendant's Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1)(A) (Docket Entry No. 409 in 04:12cr773-02; Docket Entry No. 46 in 07:09cr1757-01) is **DENIED**.

This is Defendant's second § 3582(c) motion. On June 1, 2021, she filed a Motion for Sentence Reduction Under 18 U.S.C. § 3582(c)(1)(A) (Compassionate Release) (Docket Entry No. 407 in 04:12cr773-02; Docket Entry No. 44 in 07:09cr1757-01), which was denied on June 11, 2021 (Opinion on Compassionate Release, Docket Entry No. 408 in 04:12cr773-02; and also entered as Docket Entry No. 45 in 07:09cr1757-01).

The pending motion, although more detailed than her previous motion, is based on the same arguments. Since there is no statute of limitations on § 3582(c) motions and no prohibition on filing successive motions, the court has observed that a number of defendants file frivolous successive motions that waste the court's time. Defendant is warned that if she files another § 3582(c) motion, the court will consider imposing sanctions if it denies the motion.

SIGNED at Houston, Texas, this 25th day of September, 2023.



SIM LAKE
SENIOR UNITED STATES DISTRICT JUDGE